IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2007

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.28390 OF 2004

AND

WP.MP.NO.1143 OF 2007

K.K.Seerangan ...Petitioner

Vs.

1.Executive Engineer,
Operation & Maintenance,
Gobi Division, Athani East,
Tamil Nadu Electricity Board,
Gobi,Erode District.

2.Assistant Executive Engineer,
Operation & Maintenance,
Gobi Division, Athani East,
Tamil Nadu Electricity Board,
Gobi,Erode District.

3.Assistant Engineer,
Operation & Maintenance,
Gobi Division, Athani East,
Tamil Nadu Electricity Board,
Gobi,Erode District. ...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus as stated within.

For Petitioner:Mr.P.M.Duraiswamy
For Respondents: Mr.S.N.Kirubanandan

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O R D E R

Aggrieved over the order of the third respondent rejecting the request of the petitioner to provide 20 HP Electricity Pump set service connection to his well situated in S.F.No.117/6 of Kuppandampalayam Village, Bhavani Taluk, Erode District, the petitioner has brought forth this writ petition before this Court.

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2. Affidavit filed in support of the petition is perused.

3. The Court heard the learned counsel on either side.

4. The case of the petitioner in short is that he is the farmer owning agricultural land to an extent of 2.77 acres in S.F.No.117/6, 117/5, 117/1, 2 and 409/5 of Kuppandampalayam Village and also 5.5. acres in S.F.No.10/2 of Moonkilpatti Village, Bhavani Taluk, Erode District. His son made an application to the third respondent for providing 30 HP pump set under the Self Finance Scheme. The third respondent who received the same did not pass any orders. However, subsequently, a representation dated 12.01.2004 was made by the petitioner to the third respondent with a power of attorney to get the E.B. Service connection in his name instead of his son's name and also for 20 HP instead of 30 HP pump set service connection. The third respondent rejected his application by order dated 20.4.2004 stating that 20 HP pump set service cannot be given to the petitioner's land and he was further directed to submit an application with an alteration for 7.5 HP pump set service connection . Under such circumstances, this writ petition has been brought forth.

5. The only contention put forth by the petitioner is that when the application was rejected, the authorities of the Electricity Board has only taken into consideration the fact that the petitioner is owning agricultural lands to the extent of 2.77 acres in S.F.No.117/6, 117/5, 117/1, 2 and 409/5 of Kuppandampalayam Village . But, they have not taken into consideration that the petitioner is also owning 5.5. acres in S.F.No.10/2 of Moonkilpatti Village, Bhavani Taluk, Erode District. Apart from this, learned counsel would further add that even in that order it is stated that, if he has to take water through pipeline from his well to petitioner's land around the well and the adjacent lands, he must get prior sanction from the Revenue authorities. It is submitted by the learned counsel for the petitioner that permission has already been obtained and necessary orders were passed by the Revenue Divisional Officer on 27.1.2003. But the third respondent has rejected the application of the petitioner without considering the orders passed by the Revenue authority. Under such circumstances the order under challenge has got to be quashed.

6. Heard the learned counsel for the respondent on the above contentions.

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7. According to the learned counsel for the respondents, originally as per the original application made by the petitioner, he is owning land to the extent of 2.77 acres in S.F.No.117/6, 117/5, 117/1, 2 and 409/5 of Kuppandampalayam Village and he is also owning 5.5. acres in S.F.No.10/2 of Moonkilpatti Village, Bhavani Taluk, Erode District. It is made clear in the impugned order that the petitioner's application will be considered only after obtaining permission from the District Collector to

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take water through the pipe lines to the petitioner's land in S.F.No.10/2 in Mookilpatty Village, since there is a public tar road is available. But the petitioner did not come forward to produce the above certificate for consideration. Hence, his request was rightly rejected by the authorities concerned and the said order has got to be sustained.

8. The Court paid its anxious consideration on the rival submissions made. It is not in controversy that the petitioner sought for 20 HP pump set service connection. He has mentioned that he is owning 2.77 acres which is situated at Kuppandampalayam Viullage. According to the learned counsel for the petitioner, it was brought to the notice of the authority concerned that 30 HP pump set service connection is necessary, since he is also owning 5.5 acres at Mookilpatti village and both the lands are situated nearby. From the impugned order, it could be seen that if there is any necessity like this, he must produce the certificate from the Revenue authorities for laying pipeline. According to the counsel, such orders are passed by the authorities in the year 2003 and nowhere it is stated by the petitioner that such an order passed by the Revenue authorities was placed before the respondents before passing the impugned orders. Under such circumstances, this Court is of the considered opinion that it is a fit case where the petitioner can be permitted to make a representation afresh to the respondent authorities along with the orders passed by the Revenue authorities referred to above and the authority concerned shall pass orders, within a period eight weeks from the date of such a representation is made by the petitioner, on merits and in accordance with law.

9. With the above observation, the writ petition is disposed of. No costs. Consequently, WMP.No.1142 of 2007 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
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3.Assistant Engineer,
Operation & Maintenance,
Gobi Division, Athani East,
Tamil Nadu Electricity Board,
Gobi,Erode District.

+ 1 CC To Mr.P.M.Duraiswamy, Advocate SR NO.56702

+ 1 CC To Mr.S.N.Kirubakaran, Advocate SR NO.56747

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